

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Tracey Lall,

Plaintiff

v.

Corner Investment Company, et al.,

Defendants

Case No. 2:20-cv-01287-CDS-NJK

**Order Granting Motion to Extend Time
and Directing Plaintiff's Counsel to Show
Cause Why Sanctions Should Not Be
Imposed**

[ECF No. 128]

The Cromwell defendants¹ move for attorney's fees as a sanction against plaintiff Tracey Lall's counsel, Michael Mcavoyamaya.² ECF No. 124-1. They base their motion on his "unreasonable, vexatious litigation conduct" in filing "pleadings and advanc[ing] arguments riddled with misrepresentations and inaccuracies in an apparent effort to confuse and mislead the [c]ourt into denying" the defendants' motion for summary judgment. *Id.* at 12, 18. They argue that Mcavoyamaya litigated "in bad faith, for improper motives, and in reckless disregard of his duties to the [c]ourt." *Id.* at 14. Relying on Federal Rule of Civil Procedure 56(h), 28 U.S.C. § 1927, and a variety of the Nevada Rules of Professional Conduct, they urge that an award of more than \$186,000 in combined fees and costs is appropriate.

Mcavoyamaya moves for an extension of time to respond to the sanctions motion. ECF No. 128. The response is currently due on April 18, 2023. *Id.* Mcavoyamaya contends that because the defendants' motion for sanctions "relies on what allegedly did or did not occur at the hearing on March 10, 2023," the transcript of that hearing "is essential" to his ability "to adequately and

¹ This refers to the three defendants other than Unite Here Bartenders Union, Local 165.

² His last name is capitalized differently throughout the docket. *Compare, e.g.*, ECF No. 128 at 1 (listing his firm name as "McAvoy Amaya & Revero Attorneys") with *id.* at 5-6 (signing his name as "Michael J. Mcavoyamaya"). The defendants use the former spelling, "McAvoy Amaya." ECF No. 124-1. In my order granting the defendants' motion for summary judgment (ECF No. 118), I used the latter spelling, and I do so again in this order. It is unclear which spelling is correct, so Mcavoyamaya is invited to inform the court and defense counsel of the correct spelling in his response brief.

1 accurately respond to [d]efendants' allegations of supposed sanctionable conduct." *Id.* at 2. He
2 seeks an extension until 10 days after the court reporter files the transcript so that he can rely
3 upon the transcript in drafting his response. *Id.* The defendants declined to stipulate to the
4 extension but indicated that they do not object to it. *Id.*; ECF No. 128-1 at 2. Under the local rules
5 of this district, a party seeking a deadline extension "must state the reasons for the extension
6 requested," and such a request must "be supported by a showing of good cause[.]" LR IA 6-1(a);
7 LR 26-3. This is the first request for an extension of this deadline. I find that Mcavoyamaya's
8 need to refer to the hearing transcript in responding to the defendants' motion amounts to good
9 cause, so I grant his motion.

10 Further, in his response, Mcavoyamaya is ordered to show cause why he should not be
11 sanctioned because of his conduct in this case, including, but not limited to, his lack of
12 preparation for the hearing, his repeated reliance on unsupported factual and legal assertions,
13 and his failure to timely inform the court or opposing counsel of his intention to withdraw his
14 client's claim under the Family and Medical Leave Act. *See* Fed. R. Civ. P. 11(c)(3) ("the court
15 may order an attorney . . . to show cause why conduct specifically described in the order has not
16 violated Rule 11(b)").

17 Conclusion

18 IT IS THEREFORE ORDERED that the motion to extend time [ECF No. 128] is
19 GRANTED. The Clerk of Court is directed to reset the deadline for plaintiff's response to the
20 defendants' sanctions motion (ECF No. 124) from April 18, 2023, to **10 days after the transcript**
21 **of the March 10 hearing is filed on the docket.**

22 IT IS FURTHER ORDERED that Mcavoyamaya must show cause in his response to the
23 defendants' sanctions motion why sanctions should not be imposed.

24 DATED: April 13, 2023

25 
26 Cristina D. Silva
United States District Judge